REMARKS

Claim Status

Claims 1 - 18 are pending in the present application. Herein, Applicants present no amendments to the claims, add no new claims, and cancel no claims. No additional claims fee is believed to be due.

Response to Requirement for Restriction of Inventions

The Examiner has required, under 35 USC §121, election of a single disclosed invention for prosecution on the merits. Pursuant to this requirement, Applicants hereby elect to prosecute the invention designated in the Office Action as Invention of Invention I. Claims 1-10 are drawn to this invention. This election is made with traverse.

The Office has also required, in the event that Invention I is elected, a further election under 35 USC §121, of a single disclosed species from SEQ ID NOs: 10, 12, 14, 18, 20, 24, 26, 32, and 38, for prosecution on the merits. Pursuant to this requirement, Applicants hereby elect to prosecute the species of SEQ ID NO: 32. Claims 1-10 are drawn to this invention. This election is made with traverse.

Traversal of Restriction Requirement

The traversal of the indicated restriction requirement is made as it is considered by Applicants to be improperly made.

> MPEP §803 sets forth the criteria for any restriction requirement, providing that there are two criteria for a proper requirement for restriction between patentably distinct inventions:
> (1) The inventions must be independent or distinct as claimed; and
> (2) There must be a serious burden on the examiner if restriction is not required.

The Examiner alleges that these inventions are distinct. Applicants respectfully submit that the claims of Inventions I – V are closely interrelated and in order to preserve unity of invention, all the claims should be prosecuted in the same application. All of the claims relate to the regulation of CRF receptors. The claims of Inventions I and II are directed to identify compounds that regulate CRF receptors while claims of the Inventions III -V are directed to the use of the compounds thus identified to regulate skeletal muscle mass or function in a vertebrate species. Maintaining the Office's restriction requirement will result in a piece-meal prosecution, contrary to the policy set forth in the MPEP and espoused by the courts. Therefore, Applicants request that the restriction requirement be withdrawn.

Another reason stated by MPEP §803 for restriction requirements is the unduly burdensome effect on the Examiner in searching the relevant art. In this instance, although the Office Action has noted five Inventions, these Inventions appear to involve searching only two classes, namely 530, and 514. Therefore, Applicants submit that there is no undue burden of search on the Examiner.

The Claims of the instant application are directed to methods for identifying compounds (Inventions I, and II), and the use of these compounds (Inventions III and V). The Federal Circuit has held in *In re Ochiai*, 71 F.3d 1565 (Fed. Cir. 1995), "From the standpoint of patent law, a compound and all of its properties are inseparable. *Id* at 1572. "[T]he compounds and their use are but different aspects of, or ways of looking at, the same invention and consequently that invention is capable of being claimed both as new compounds or as a new method or process of bonding/priming." *Id.* at 1572. In other words, *Ochiai* holds that a compound and a method/process of using those compounds are the same invention. Therefore, a restriction requirement separating the prosecution of methods of identifying compounds from the prosecution of methods of using those compounds would be deemed improper.

Alternately, Applicants wish to point out that claims of Inventions I and II are directed to identifying compounds that regulate skeletal muscle mass or function. The claims of Invention I are directed to *in vitro* methods, while the claims of Invention II are directed to *in vivo* methods. Thus, Applicants submit that there is no undue burden of

search on the Examiner. Therefore, Applicants submit that Invention I and Invention II should be examined together.

Further, Applicants submit that the sequences listed in the Table 1 and the Sequence Listing, and claimed in claims 1-10, are genes and proteins that encode CRF_2R receptors from various vertebrate species. These proteins show a high level of homology at both the DNA and protein level and are conserved across the vertebrate life forms as described in Table 2 providing details of their high level of homology to human CRF_2R receptor sequence of SEQ ID NO: 10. They share similar structures, are all G protein-coupled receptors, and have similar ligand binding sites. Therefore, Applicants submit that the exemplified CRF_2R receptor sequences, i.e., SEQ ID NOs: 10, 12, 14, 18, 20, 24, 26, 32, and 38 should be examined together.

Conclusion

This response represents an earnest effort to place the application in proper form. In view of the foregoing, reconsideration of this application and examination of claims 1-18 is respectfully requested.

Respectfully Submitted,

THE PROCTER & GAMBLE COMPANY

By _____
Naishadh N. Desai, Ph.D.
Registration No. 50,630
(513) 622 0087

Date: 08 August 2005
Customer No. 27752
8448R_RestReq_25August2005